

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

MARCOS ORTIZ, #1049113

§

v.

§ CIVIL ACTION NO. G-04-354

DOUG DRETKE, DIRECTOR
TDCJ-CID

§

ORDER

Before the Court is the Report and Recommendation of the United States Magistrate Judge that was entered on January 26, 2006. The State has filed Objections, but Petitioner has failed to do so after being given an extension of time.

The Magistrate Judge recommends that the State's motion for summary judgment be denied on three issues, and only because they are moot. The State's Objections do not cover these points but relate instead to issues granted in its favor. Having given this matter *de novo* review under 28 U.S.C. § 636(b)(1)(C), this Court finds that the State's Objections are moot and that the Report and Recommendation should be **ACCEPTED**.

Accordingly, it is **ORDERED** that the Petition for a Writ of Habeas Corpus of Marcos Ortiz (Instrument No. 1) is **DISMISSED**.

DONE at Galveston, Texas this 2nd day of March, 2006.



Samuel B. Kent
United States District Judge